



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

BY ECF (in No. 05 Cr. 960)

November 5, 2014

The Honorable Thomas P. Griesa
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1630
New York, New York 10007

**Re: *United States v. Jose Hernando Rodriguez, No. 05 Cr. 960 (TPG)*
 *Jose Hernando Rodriguez v. United States, No. 11 Civ. 2957 (TPG)***

Dear Judge Griesa:

The Government respectfully submits this letter to draw the Court's attention to the requirement in Rule 8(c) of the Rules Governing Section 2255 Proceedings for the United States District Courts that "[i]f an evidentiary hearing is warranted, the judge must appoint an attorney to represent a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A." *See Graham v. Portuondo*, 506 F.3d 105, 108 (2d Cir. 2007) (per curiam) (vacating the District Court's judgment where the District Court failed to appoint the petitioner counsel under 18 U.S.C. § 3006A even though the petitioner did not specifically request counsel at the hearing).

An evidentiary hearing is scheduled in the above-captioned Section 2255 matter for December 15, 2014. The Government respectfully requests that the Court direct the petitioner to complete and return to the Court CJA Form 23, attached hereto, so that the Court may evaluate whether counsel should be appointed. If the petitioner is financially unable to obtain counsel, the Government respectfully requests that the Court appoint counsel pursuant to 18 U.S.C. § 3006A.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: /s Drew Johnson-Skinner
Drew Johnson-Skinner
Assistant United States Attorney

cc: Jose Hernando Rodriguez (by mail)
Attachment

FINANCIAL AFFIDAVIT

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT, OR OTHER SERVICES WITHOUT PAYMENT OF FEE

IN THE UNITED STATES ☐ DISTRICT COURT ☐ COURT OF APPEALS ☐ OTHER (Specify below)

IN THE CASE OF

_____ v. _____

FOR

AT

LOCATION NUMBER

PERSON REPRESENTED (Show your full name)

CHARGE/OFFENSE (describe if applicable & check box→)

☐ Felony
☐ Misdemeanor

- 1 ☐ Defendant - Adult
- 2 ☐ Defendant - Juvenile
- 3 ☐ Appellant
- 4 ☐ Probation Violator
- 5 ☐ Supervised Release Violator
- 5 ☐ Habeas Petitioner
- 7 ☐ 2255 Petitioner
- 8 ☐ Material Witness
- 9 ☐ Other (Specify) _____

DOCKET NUMBERS

Magistrate Judge

District Court

Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

INCOME & ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Self-Employed									
		Name and address of employer: _____									
		IF YES , how much do you earn per month? \$ _____ IF NO , give month and year of last employment? _____ How much did you earn per month? \$ _____									
	OTHER INCOME	If married, is your spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No									
IF YES , how much does your spouse earn per month? \$ _____ If you are a minor under age 21, what is the approximate monthly income of your parent(s) or guardian(s)? \$ _____											
CASH	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input type="checkbox"/> No										
	<table border="1"><thead><tr><th>RECEIVED</th><th>SOURCES</th></tr></thead><tbody><tr><td>IF YES, give the amount received and identify the sources</td><td></td></tr><tr><td>\$ _____</td><td>_____</td></tr><tr><td>\$ _____</td><td>_____</td></tr><tr><td>\$ _____</td><td>_____</td></tr></tbody></table>		RECEIVED	SOURCES	IF YES , give the amount received and identify the sources		\$ _____	_____	\$ _____	_____	\$ _____
RECEIVED	SOURCES										
IF YES , give the amount received and identify the sources											
\$ _____	_____										
\$ _____	_____										
\$ _____	_____										
PROPERTY	Do you have any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES , total amount? \$ _____										
	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No										
	VALUE	DESCRIPTION									
	IF YES , give value and description for each										
	\$ _____	_____									
	\$ _____	_____									
	\$ _____	_____									
	\$ _____	_____									

OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS ____ Single ____ Married ____ Widowed ____ Separated or Divorced	Total No. of Dependents _____	List persons you actually support and your relationship to them _____ _____ _____
	DEBTS & MONTHLY BILLS (Rent, utilities, loans, charge accounts, etc.)	DESCRIPTION	TOTAL DEBT	MONTHLY PAYMENT
		\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____

I certify under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

Date

FD/CJA/RET. ATTORNEY (PRINT)



APPROVED



DENIED

ASSISTANT UNITED STATES ATTORNEY (PRINT)

SIGNATURE OF JUDICIAL OFFICER

DATE